

REMARKS

The Specification has been amended to use the proper format for the registered trademark ROUNDUP and to provide clarity. Applicant has amended paragraphs [0127] and [0150] of the Specification to correct typographical errors. The Specification has been amended to include the ATCC Accession number. A copy of the ATCC deposit receipt is attached. Applicant has amended claims 1-2, 5-7, and 20. Claims 9-19 and 21-22 have been canceled. Claims 23-35 have been added. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§112, 102(b) and 103(a) rejections as set forth in the Office Action dated December 21, 2005. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has rejected claims 9-22 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has amended claim 20 and canceled claims 9-19 and 21-22. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-22 under §112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended claims 1, 2, and 7 to include the ATCC Accession number. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit was performed; and

- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1, 2, 6, 7, 12, 14, 16, 18, 19, and 21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has rejected claims 1, 2, 7, 12, 14, and 16 as being indefinite in the recitation of "ATCC Accession No. _____", because the ATCC Accession number is missing. Applicant has amended claims 1, 2, and 7 to include the ATCC Accession number and has canceled claims 12, 14, and 16. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1, 2, 7, 12, 14, and 16 under 35 U.S.C. §112, second paragraph, as being indefinite in that the recitation of "S020030" does not clearly identify the claimed soybean cultivar and seed, and does not set forth the metes and bounds of the claimed invention. Applicant has amended claims 1, 2, and 7 to state the ATCC Accession number and has canceled claims 12, 14, and 16. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 6 under 35 U.S.C. §112, second paragraph, as being indefinite in that the members of the Markush group are not tissue types, but rather are cell types or organ types. Applicant has amended claim 6. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 7 under 35 U.S.C. §112, second paragraph, as being indefinite in that the recitation of "capable of expressing" is not clear. Applicant has amended claim 7. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12, 14, and 16 under 35 U.S.C. §112, second paragraph, as being indefinite in that the phrase "under plant growth conditions" has not been defined. Applicant has canceled claims 12, 14, and 16. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 14 under 35 U.S.C. §112, second paragraph, as being indefinite in that a plant variety would not be crossed with itself but with a different

plant variety. Applicant has canceled claim 14. Withdrawal of this rejection is respectfully requested.

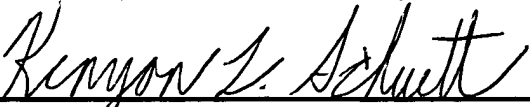
The Examiner has rejected claims 18 and 21 under 35 U.S.C. §112, second paragraph, as being indefinite in that the recitation of "wherein said transgene is selected from the group consisting of: herbicide resistance, insect resistance, and disease resistance", as herbicide resistance, insect resistance, and disease resistance are not transgenes. Applicant has canceled claims 18 and 21. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 9-22 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Conway (U.S. Patent No. 6,040,500 filed January 15, 1999 and issued March 21, 2000). Applicant has amended claim 20 and canceled claims 9-19 and 21-22. Applicant submits there are differences between soybean cultivar S020030 of the instant invention and soybean cultivar CX433RR of U.S. Patent No. 6,040,500. Soybean cultivar S020030 has a shiny seed coat luster, while soybean cultivar CX433RR has a dull seed coat luster. In addition, soybean cultivar S020030 is resistant to Soybean Cyst Nematode, while soybean cultivar CX433RR is susceptible to Soybean Cyst Nematode. Therefore, soybean cultivar S020030 of the instant invention is novel and nonobvious over soybean cultivar CX433RR of U.S. Patent No 6,040,500. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§112, 102(b), and 103(a). Reconsideration of this application and an early notice of allowance are respectfully requested.

Application No. 10/720,705
Amendment dated February 28, 2006
Reply to Office Action dated December 21, 2005

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SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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From: ATCC Patent Depository **Number of pages:** 1 (Including this page)

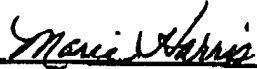
REFERENCE: Patent Deposit (Ref: Docket or Case No: 1421-141, 1421-196, 1421-138)

Description: Soybean *Glycine max* (L.): S030158 assigned PTA-7325
Soybean *Glycine max* (L.): 4441080 assigned PTA-7326
Soybean *Glycine max* (L.): S020030 assigned PTA-7327

Date of Deposit: January 24, 2006

The ATCC Certificate of Deposit will be forwarded to you within 30 days. An invoice will be sent under separate cover as follows:

Total Fees for PTA-7325 to PTA-7327 (Storage/informing/viability testing)	\$ 7,500.00
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Marie Harris, Patent Specialist
ATCC Patent Depository

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TOTAL P.05

02/27/2006 MON 11:55 [TX/RX NO 5273] 005